

1984 WL 249800 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 5, 1984

*1 The Honorable D. M. McEachin, Jr.
Member
House of Representatives
Drawer 150
Florence, South Carolina 29503

Dear Representative McEachin:

By your letter of December 13, 1983, you asked whether under both the statutory and case authority of this State it is acceptable to allow an agent of the party seeking repossession of personal property by claim and delivery to act as surety as required by Sections 15-69-50 (Court of Common Pleas) or 22-3-1330 (Magistrate's Court) of the Code of Laws of South Carolina (1976). I learned from Mr. Tim Meacham of Carolina Regional Legal Services that it is common in Florence County for the plaintiff in a claims and delivery action to utilize an employee as surety in these actions. This question has basically been answered in a prior opinion of this Office dated December 22, 1982, a copy of which is enclosed for your convenience. That opinion concludes that it would be preferable to have someone other than the plaintiff execute the surety; the conclusion would be applicable where the surety is an employee of the plaintiff, acting in his capacity as an employee and not individually.

I trust that this prior opinion will answer your inquiry. If you need further clarification, please contact me at 758-3970.

Sincerely,

Patricia D. Petway
Staff Attorney

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